

State Board of Elections Policy 2008-0010

A meeting of the Virginia State Board of Elections was held on October 28, 2008 whereby a policy was proposed and approved by the Board:

When May A Ballot Box be Emptied

WHEREAS, the Code of Virginia, § 24.2-623 states:

The governing body of each county and city shall provide a ballot container for each precinct and each part of a split precinct. The container shall have a lock and key and an opening of sufficient size to admit a single folded or unfolded ballot and no more. The containers shall be kept by the electoral boards for use in the precincts;

WHEREAS, the Code of Virginia, § 24.2-624 states:

Immediately before the opening of the polls, an officer of election shall open the ballot containers in the presence of the political party or candidate representatives authorized to be present for the examination of voting equipment pursuant to § 24.2-639, if such representatives are available. The officers shall inspect the containers to ensure that they are empty, lock them, and deliver the key to one of the officers. One of the officers shall forthwith proclaim that the polls are open. The containers shall not be opened until the close of the polls and shall then be opened for the purpose of counting the ballots therein. The containers shall be kept in view of those voting within the polling place during the hours of the election;

[Emphasis added.]

WHEREAS, the Code of Virginia, § 24.2-642 states, in part:

A. When any voting or counting device becomes inoperative in whole or in part while the polls are open, the officers of election shall immediately notify the electoral board. If possible, the electoral board shall dispatch a qualified technician to the polling place to repair the inoperative device. All repairs shall be made in the presence of two officers of election representing the two political parties or, in the case of a primary election for only one party, two officers representing that party.

...

B. In any precinct that uses a ballot that can be marked without the use of the counting device, if the counting device becomes inoperative and there is no other available counting device, the uncounted ballots shall be placed in a ballot container or compartment that is used exclusively for uncounted ballots. If an operative counting device is available in the polling place after the polls have closed, such uncounted ballots shall be removed from the container and fed into the counting device, one at a time, by an officer of election in the presence of all persons who may be lawfully present at that time but before the votes are

determined pursuant to § 24.2-657. If such device is not available, the ballots may be counted manually or as directed by the electoral board ...;

WHEREAS, an optical scan reader will not function if the connected ballot container includes too many ballots;

Now therefore be it

RESOLVED, by the State Board of Elections under its authority to issue rules and regulations to promote the proper administration of election laws and obtain uniformity in the administration of elections pursuant to § 24.2-103, that

If an optical scan reader in use in a registrar's office or a polling place malfunctions because the connected ballot container includes too many ballots, election officials may open the ballot container and empty the ballots with the following safeguards:

1. The optical scan ballot container shall be opened in plain sight or any authorized party representatives or other observers and, once the ballots have been deposited into an auxiliary ballot container, both ballot containers shall remain in plain sight in the polling place.
2. Any such auxiliary ballot container used shall meet the requirements of Va. Code § 24.2-623.
3. A minimum of two officers of election, representing both political parties, shall execute such a transfer of ballots.

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